

## **SAME LETTER TO CHAIRMAN BAUCUS AND SENATOR GRASSLEY**

Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

I want to let you know that the IRS Oversight Board strongly supports a legislative proposal that has been developed by the IRS, and approved by the Treasury Department, as part of a package designed to enhance certain provisions of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98). We support one specific proposal because we believe that it is fully consistent with Board's responsibility to assure that the organization and operations of the Internal Revenue Service allows it to carry out its mission as well as to ensure the proper treatment of taxpayers by employees of the IRS. This is not meant to suggest that we in anyway disapprove the other proposals, it is merely a judgment that they are not necessarily within the Board's purview.

The proposal we believe deserves favorable legislative consideration would temper the application of section 1203 of RRA 98. This section *requires* the termination of an IRS employee for any one of several specifically enumerated acts of misconduct (with possible penalty reduction by the Commissioner personally). Unfortunately, this taxpayer protection measure has become a tool of disgruntled employees (who have other methods of redress) and of taxpayers seeking favorable treatment through intimidation. Empirical evidence demonstrates that the vast majority of complaints filed under this section have been frivolous (as of April 2001, only seven out of 1285 complaints were substantiated). Anecdotal evidence would suggest that such intimidation has been successful, impeding the ability of the IRS to perform its mission.

In evaluating the IRS proposal, the Board considered several factors: the original intent of the RRA, statistics of complaints filed, discussions with IRS employees and a discussion with the Deputy Treasury Inspector General for Tax Administration. Our conclusion is that section 1203 should be amended to reduce the unintended negative impact on IRS employees and tax administration while maintaining needed taxpayer protection. The IRS proposal appears to meet this test, being a balanced one, which maintains essential taxpayer protection while reducing the unintended consequences of section 1203. Furthermore, it would extend section 1203 coverage to unauthorized access, strengthening the IRS's right to discipline without this penalty being overturned on appeal.

The Board believes that this proposal should receive your consideration. On behalf of the IRS Oversight Board, I appreciate your consideration of these proposals and would be pleased to meet with you to discuss them in greater detail.

Sincerely,

Larry Levitan

cc: Senator Charles Grassley